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SERVICE DATE – MARCH 29, 2013

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 33 (Sub-No. 303X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT OF FREIGHT
EASEMENT—IN ALAMEDA AND SANTA CLARA COUNTIES, CAL.

Docket No. AB 980 (Sub-No. 1X)

SANTA CLARA VALLEY TRANSPORTATION AUTHORITY—ABANDONMENT OF
COMMON CARRIER SERVICE—IN ALAMEDA AND SANTA CLARA COUNTIES, CAL.

Decided: March 28, 2013

By decision served on July 23, 2012, the Board, under 49 U.S.C. § 10502, exempted from the prior approval requirements of 49 U.S.C. § 10903 for Union Pacific Railroad Company (UP) to abandon its common carrier obligation pursuant to a freight easement and for Santa Clara Valley Transportation Authority (SCVTA) to abandon its common carrier obligation over an 8.95-mile portion of the San Jose Industrial Lead between mileposts 7.35 and 16.3 in Alameda and Santa Clara Counties, Cal. The exemption was subject to environmental and standard employee protective conditions.

The imposed environmental conditions required UP and SCVTA to: (1)(a) retain their interest in and take no steps to alter the historic integrity of all historic properties, including sites, buildings, structures, and objects within the project right-of-way that are eligible for listing or listed in the National Register of Historic Places, until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. § 470f, has been completed, (b) report back to the Board's Office of Environmental Analysis (OEA) regarding any consultations with the California State Parks, Office of Historic Preservation (SHPO) and the public, and (c) not file their consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed the condition; and (2) consult with the U.S. Department of Commerce, National Geodetic Survey (NGS) at least 90 days before beginning any salvage activities that would disturb or destroy any geodetic station markers.

In a supplemental final environmental assessment dated March 25, 2013, OEA states that, by letter dated February 27, 2013, it initiated consultation with the SHPO regarding the Section 106 condition. According to OEA, the SHPO replied by letter dated March 12, 2013, stating that the proposed abandonment has been reviewed and consulted upon under a Federal Transit Administration project (the Silicon Valley Rapid Transit Corridor), and that a Programmatic Agreement was executed on March 25, 2010, with a finding of "No Historic Architectural

Properties will be Affected.” The Programmatic Agreement also established protocols for the handling of unevaluated and unanticipated archeological resources that might be encountered during construction. The SHPO stated that the Area of Potential Effects for the proposed abandonment is included in the Area of Potential Effects of the Programmatic Agreement, and that it concurs that the Board’s responsibilities under Section 106 of the National Historic Preservation Act are complete.

For the foregoing reasons, OEA recommends that the Section 106 condition imposed in the July 23, 2012 decision be removed. Accordingly, based on OEA’s recommendation, the proceedings will be reopened and the previously imposed historic preservation condition will be removed.¹

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. These proceedings are reopened.
2. The Section 106 historic preservation condition imposed in the July 23, 2012 decision in these proceedings is removed.
3. This decision is effective on its service date.

By the Board, Richard Armstrong, Acting Director, Office of Proceedings.

¹ The NGS condition remains in effect.